

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVID BRIAN MORGAN,

Petitioner,

vs.

No. CIV 22-0891 JB/SCY

UNITED STATES,

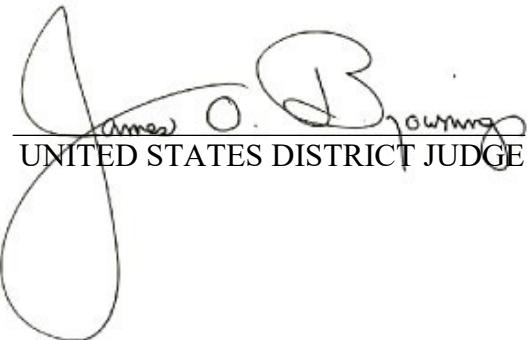
Respondent.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on the Plaintiff's Petition for Writ of Prohibition, filed September 11, 2023 (Doc. 19)(“Petition”). In the Petition, Petitioner David Brian Morgan challenges the United States Court of Appeals for the Tenth Circuit’s Order Denying Certificate of Appealability, filed August 31, 2023 (Doc. 18). See Petition at 2-6. Because the Petition is not properly before this Court, the Court denies the Petition.

“A writ of prohibition is a ‘means of confining an inferior court to a lawful exercise of its prescribed jurisdiction’” O’Connor v. United States, 72 F. App’x 768, 771 (10th Cir. 2003)(quoting In re Missouri, 664 F.2d 178, 180 (8th Cir. 1981)). Accordingly, “a writ[] of prohibition . . . ‘may only go in aid of appellate jurisdiction.’” O’Connor v. United States, 72 F. App’x at 771 (quoting Parr v. United States, 351 U.S. 513, 519 (1956)). The Court does not have appellate jurisdiction over the Tenth Circuit nor can the Court correct the Tenth Circuit’s exercise of jurisdiction. See O’Connor v. United States, 72 F. App’x at 771 (“[T]he function of a writ of prohibition is to correct a lower court’s exercise of jurisdiction.”). Accordingly, the Court denies the Petition.

IT IS ORDERED that the Petition for Writ of Prohibition, filed September 11, 2023 (Doc. 19), is dismissed.



James B. Gwinning
UNITED STATES DISTRICT JUDGE

Parties:

David Brian Morgan
Lexington, Oklahoma

Petitioner pro se